

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRANDON COATES,	§
	§
Defendant Below-	§ No. 160, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0609014541
Plaintiff Below-	§
Appellee.	§

Submitted: September 9, 2011

Decided: November 8, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 8th day of November 2011, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, Brandon Coates, filed this appeal from the Superior Court's order sentencing him for his second violation of probation (VOP). Coates contends that the evidence presented at the VOP hearing was insufficient to sustain the Superior Court's findings. We find no support for Coates' contentions. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Coates pled guilty in May 2008 to one count of second degree assault. The Superior Court sentenced him to four

years and six months at Level V incarceration to be suspended after serving two years for a period of probation. In July 2010, the Superior Court found that Coates had violated the terms of his probation and sentenced him to two years at Level V incarceration, to be suspended immediately for probation. In February 2011, Coates' probation officer filed a violation report alleging that Coates had violated probation because: (i) he was arrested on a new criminal charge in September 2010; (ii) he failed to report to his probation officer twice in January 2011; (iii) he conducted a drug transaction on January 13, 2011; (iv) he possessed drug paraphernalia in his home on February 2, 2011; (v) he missed two curfew checks; and (vi) he left the State without his probation officer's permission.

(3) The Superior Court held a contested VOP hearing on March 15, 2011 at which Coates was represented by counsel. At the conclusion of the hearing, the Superior Court found that Coates had violated the terms of his probation and sentenced him to two years at Level V incarceration to be suspended after serving one year for probation. This appeal followed.

(4) In his opening brief on appeal, Coates essentially contends that the evidence was insufficient to support the Superior Court's VOP finding. Coates, however, has failed to provide this Court with a copy of the transcript of his contested VOP hearing. Without the transcript, which Coates had the

obligation to supply, the Court has no adequate basis upon which to review his claim of insufficient evidence.¹ Moreover, Coates concedes in his opening brief that he missed curfews. Although he offers excuses for missing curfew, his admission alone is sufficient to sustain the Superior Court's finding that he had violated probation.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ See *Brittingham v. State*, 2011 WL 378807 (Del. Feb. 1, 2011) (citing *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987)).